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Planning Commission Date: September 24, 2003

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business

Report prepared by: Kim Duncan

Public Hearing: Yes: _____ No: X

Notices Mailed On: N/A

Published On: N/A

Posted On: N/A

TITLE: ADMINISTRATIVE PERMIT NO. P-AD2003-15

Proposal: Request to allow after-market automotive parts sales in Highway Services (HS) zoning district.

Location: 1503 North Milpitas Boulevard (APN: 022-02-045)

RECOMMENDATION: Approval

Applicant: Don Pearlman, 4633 Old Ironsides Drive, Suite 100, Santa Clara, Ca 95054

Property Owner: Same as applicant

Previous Action(s): Use Permits, 'S' Zone Application, 'S' Zone Amendments

Environmental Info: EIA 503

General Plan Designation: Highway Services

Present Zoning: Highway Services ("HS")

Existing Land Use: Business Services

Environmental info: N/A

Agenda Sent To: Applicant/Owner

Attachments: Letter from applicant, MMC XI-10-21.01 "HS Highway Service District" and Section 54.02 "Other Uses".

PJ No. N/A

BACKGROUND

On June 21, 1984, the Planning Commission approved an 'S' Zone Application for the development of a 5.72 acre parcel with three (3) multi-tenant buildings. Subsequent amendments to the 'S' Zone approval include a roof screen, window sign and sign program for the complex. On December 4, 1986, the Planning Commission approved a request for the use of a bakery thrift shop as a permitted use. On April 7, 1988 and June 16, 1988, the Planning Commission denied two requests for auto tire installation businesses to be located at the complex.

Site Description

The project site is located west of North Milpitas Boulevard just south of the Pioneer Mobile Home Park. The site is bound to the south by Minnis Circle and east by Union/Pacific Railroad tracks.

The site and properties to the south are zoned Highway Services (HS), with properties to the north zoned Mobile Home Park (MHP) and Multi-Family (R3) located across Berryessa Creek west of the site. Uses at the project site include a performing arts school, computer repair shop, and electro-mechanical products manufacturing.

THE APPLICATION

The applicant is requesting the Planning Commission allow the retail sales of after-market automotive parts as a permitted use in the Highway Services zoning district pursuant to Title IX, Chapter 10, Section 21.02-39 (Other similar uses) and 54.02 (Other uses permitted by Commission) of the City's zoning ordinance. The City's zoning ordinance provides a list of permitted uses in the Highway Services zoning district that include secondhand or thrift stores, auto sales and restaurants (with no alcohol sales). In addition, other uses similar to the listed permitted uses are allowed pursuant to Section 21.02-39 of the zoning ordinance, which provides for the judgment of the Planning Commission to approve "other uses that are similar to the uses listed in the same section and are not objectionable to the general welfare".

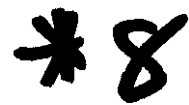
PROJECT DESCRIPTION

After-market automotive parts are used for customizing automobiles and include spoilers, car seats, stereos and automobile accessory items. No automobile service or parts installation are proposed with this request. It is staff's opinion that retail sales of after-market automotive specialty parts are similar in nature and less intensive than other permitted uses in the HS District. In addition, because there are not many retail uses mentioned in the Highway Services district, when looking at the list of conditional uses this proposed use is also less intensive.

ISSUES

Conformance with the General Plan and Zoning Ordinance

The proposed use is consistent with Implementing Policy 2a-I-3, which encourages economic pursuits that will strengthen and promote development through stability and balance. It is also consistent with Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.



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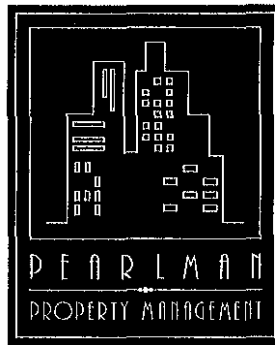
P-AD2003-15-After-market automotive parts sales in HS district

The purpose and intent of the Highway Services (HS) district is to provide for a wide range of personal and business services primarily oriented to the automobile customer. It is intended to include those commercial uses which customarily locate outside of the Central Business District area and permitted uses are of a relatively low customer volume (Section 21.01). In this case, the proposed after-market automobile parts store provides a service to automobile customers and is located outside of the Central Business District. In addition, the client base is specialized and, therefore, the use would be less intensive compared to other typical commercial retail uses (such as jewelry, music, and department stores provided for in Neighborhood and General Commercial zoned districts).

RECOMMENDATION

Approve Administrative Permit No. P-AD2003-15.

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September 17, 2003

City of Milpitas
Mr. James Lindsay
455 E. Calaveras Blvd.
Milpitas, CA 95035-5411

Dear Mr. Lindsay:

This letter is in reference to our conversation regarding 1503 N Milpitas Blvd. I greatly appreciate your time and that of the other members of the planning staff with whom I spoke.

As you are aware we have had the above referenced space vacant for over 6 months. Our attempt to lease the space has been unsuccessful as a result of the market conditions in the Valley and our need to be selective regarding the type of tenant we procure. We have negotiated a lease with AutoRnD a local distributor of automobile aftermarket supplies. We feel comfortable that the use is consistent and compatible with the permitted uses of the HS zone. The zone permits the sale of autos with accessory repairs and services (sec. 21.02-3) Although it does not specifically mention parts, we felt that any interpretation would allow the use. The tenant also intends to do some installation of these aftermarket parts.

When the question of installation of these parts was raised the planning staff suggested that the intended use might fall better under the conditional use area of the zoning ordinance. Additionally they suggested that retail sales are not permitted in the zone. The fact is that many of the "Permitted uses" are retail uses. (Furniture store, plant nurseries, eating establishments, thrift store etc.) Under the statement of purpose and intent of the ordinance it specifically mentions "business services primarily oriented to the automobile customer". Furthermore the tenant will not be allowed by the terms of the lease to do any installation or service outdoors in the parking lot or common area.

In our conversation it was also pointed out that under terms of the zoning ordinance section 21.02-39 "Other uses similar to the above" can be considered with planning Commission approval.

As per our discussion we request that the planning commission approve the use of the sale of aftermarket parts as a permitted use under the zoning. Further we agreed to submit a request to the planning commission for a conditional use permit before commencing to undertake installation of these parts. Additionally, any such installation would take place within the building when permitted. Time is a very important factor in this request. Both we, as owners, and the tenant are anxious to get this business underway. We are sure that the revenue for both ourselves and the sales tax revenue to the city will be most welcome. The use is clean and consistent with the intended HS zone and I am sure the business would be an asset to the project and the city.

Sincerely,

Milpitas X

A handwritten signature in black ink, appearing to read 'Don Pearlman', written in a cursive style.

Don Pearlman

Cc: Ms Kim Duncan

Section 21 "HS" Highway Service District

The following regulations shall apply to the HS Highway Service District. (Ord. 38.76, 8/19/65; Ord. 38 (part), 3/15/55)

XI-10-21.01 Purpose and Intent

The HS District is intended to provide for the wide range of personal and business services primarily oriented to the automobile customer and transient residential uses such as motels or mobile home parks. It is intended to include those commercial uses which customarily locate outside of the Central Business District area and tend to require lots with well-maintained grounds. The highway service uses listed are of a relatively low customer volume. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The HS District, when appropriate, will be located along State highways and major City thoroughfares and in accordance with the adopted City of Milpitas General Plan. (Ord. 38.76, 8/19/76; Ord. 38 (part), 3/15/55)

XI-10-21.02 Uses Permitted

The following uses are permitted in the HS Districts:

21.02-1 Adult Businesses, subject to the provisions of the Adult Business Ordinance, Title III, Chapter 4 and the provisions of Subsection 54.18.

21.02-1.1 Advertising signs and advertising structures subject to compliance with provisions of the adopted City of Milpitas Sign Ordinance. (Chapter 30 of Title XI)

21.02-2 Auto and truck rental agency.

21.02-3 Auto, truck and boat sales with accessory repairs and services.

21.02-4 Auto sales, outdoor (new and used cars in operable condition only).

21.02-5 Appliance repair.

21.02-5(a) Banks and similar financial institutions.

21.02-6 Blueprint and photocopying plants.

21.02-6-1 Bowling alley.

21.02-7 Business or language schools, correspondence schools.

21.02-8 Canvas and metal awning shops.

21.02-9 Commercial art studios.

21.02-9.1 Commercial athletic facilities, conducted wholly within a building, such as but not limited to health spas and gyms; tennis, handball or racquetball, etc.

21.02-10 Commercial laboratories, analytical chemists.

21.02-11 Dancing schools.

21.02-12 Diaper service.

21.02-13 Disinfection and exterminating services.

21.02-14 Driving schools.

21.02-14-1 Eating establishments not serving alcoholic beverages.

21.02-15 Electric and neon sign shops.

21.02-16 Fire house.

21.02-17 Food storage lockers.

21.02-18 Fraternal or union halls and offices.

21.02-19 Furniture store.

21.02-20 Deleted by Ord. 38.551.

21.02-21 House trailer sales and rentals.

21.02-22 Janitorial services and window cleaning services.

9/17/02; Ord. 38.711 (part), 8/20/96; Ord. 38.702 (1) (part), 8/15/95; Ord. 38.694 (2) (part), 10/4/94; Ord. 38.688 (part), 3/15/94; Ord. 38.662 (A) (part), 1/8/91; Ord. 38.654 (A) (part), 3/20/90; Ord. 38.591, 11/5/85; Ord. 38.551 (part), 9/7/82; Ord. 38.395, 9/20/77; Ord. 38.207, 11/17/70; Ord. 38.204, 11/3/70; Ord. 38.195, 1/6/70; Ord. 38.180, 6/17/69; Ord. 38.123, 5/7/68; Ord. 38.76, 8/19/65; Ord. 38 (part), 3/15/55)

XI-10-21.04 Development Standards

21.04-1 Height of Structures. No limitation subject to compliance with all additional City Codes and Ordinances. This Section does not include freestanding sign heights which are regulated by Ordinance No. 124, Sign Ordinance, enacted as Chapter 30, Title XI of the Milpitas Municipal Code.

21.04-2 Lot Area.

(a) Those lots having frontage on a major street (four (4) or more moving traffic lanes) shall have a lot area no less than one and one-half (1 1/2) acres.

(b) Those lots having frontage on a non-major street (two moving traffic lanes) shall have a lot area no less than twenty thousand (20,000) square feet.

(c) The following specific land uses may locate on parcels no less than ten thousand (10,000) square feet regardless of street frontage:

(1) Auto service (gas) stations.

(2) Eating and drink establishments, including drive-in restaurants.

21.04-3 Minimum Lot Width.

(a) Those lots having frontage on major street (four or more moving traffic lanes) shall have a lot width of no less than two hundred fifty (250) feet measured at front property line abutting the major street.

(b) Those lots having frontage on a non-major street (two moving traffic lanes) shall have a lot width of no less than one hundred twenty-five (125) feet.

(c) Those specific land uses allowed to locate on parcels no less than ten thousand (10,000) square feet in an area shall have a lot (or parcel) width of no less than one hundred (100) feet.

21.04-4 Front Yard. There shall be no front yard required except that those parcels which have frontage on major (four moving lanes or more) streets shall be required to have a fifty (50) foot front yard. Twenty-five (25) percent of the required front yard shall be landscaped.

21.04-5 Rear Yards and Side Yards.

(a) Deleted by Ord. 38.473;

(b) Where the rear or side of a Commercial lot abuts a Residential District there shall be a rear yard or a side yard of not less than fifteen (15) feet in depth or width, or both.

21.04-5.1 Floor Area Ratio. Subject to XI-10-2.38.2, the Floor Area Ratio is .50 (50%).

21.04-6 Traffic Hazards. In every case where a parcel is located in an "HS" District that is combined with the Special "S" Zoning Area, the Planning Commission shall review and approve, among other factors, the specific location and amount of access ways with regard toward the elimination or reduction of any potential traffic hazards. In addition, the Commission may require the construction of temporary median barriers where deemed necessary based on ultimate street construction. (Ord. 38.713 (1) (part), 12/3/96; Ord. 38.637 (part), 8/16/88; Ord. 38.185, 8/5/69; Ord. 38.76, 8/16/65; Ord. 38 (part), 3/15/55)

XI-10-21.05 Off-Street Parking Requirements

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking shall be improved as provided for in Subsection 54.03. (Ord. 38.760 (3), 9/17/02; Ord. 38.384, 10/26/76)

21.05-1 Repealed by Ord. 38.384, 10/26/76.

21.05-2 Repealed by Ord. 38.384, 10/26/76.

21.05-3 Repealed by Ord. 38.384, 10/26/76.

21.05-4 Repealed by Ord. 38.384, 10/26/76.

21.05-5 Repealed by Ord. 38.384, 10/26/76.

21.05-6 Repealed by Ord. 38.384, 10/26/76.

21.05-7 Repealed by Ord. 38.384, 10/26/76.

Section 54 General Provisions

XI-10-54.01 Conformance with All Sections of This Code

No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the district in which such building, structure or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances. (Ord. 38 (part), 3/15/55)

XI-10-54.02 Other Uses Permitted by Commission

Where the term "other uses similar to the above" is mentioned, it shall be deemed to mean other uses which, in the judgment of the Commission as evidenced by a written decision, are similar to the uses listed in the same section and are not objectionable to the general welfare. "Other Uses" so determined by the Commission shall be regarded as listed uses. In no instance, however, shall these regulations be so interpreted to permit a use in a district when such use is specifically listed and permitted in a less restricted district: e.g., a use specifically set forth in the "C2" District shall not be permitted in the "C1" District. (Ord. 38 (part), 3/15/55)

XI-10-54.03 Improvement of Parking Areas, Auto Sales Areas and Loading Areas

Every parcel of land hereafter used as a private or public parking area, automobile and trailer sales area, or loading area shall be improved in accordance with Chapter 13, Section 18, Title II (Building Regulations) of the Milpitas Municipal Code and Section 53 of Chapter 10 (Zoning, Planning and Annexation) and landscaped as per Section 53.09 of Chapter 10 (Zoning, Planning and Annexation) and landscaping requirements specific to the zoning district in which the parking area, automobile and trailer sales area or loading area is located, unless otherwise exempted by the City's land use or zoning regulations. (Ord.

38.760 (3), 9/17/02; Ordinance 38.196, 1/20/70: Ord. 38 (part), 3/15/55)

XI-10-54.04 Zoning of Annexed Areas

Any area annexed to the City after the effective date of this amendment shall immediately upon such annexation be automatically classified as an Agricultural District with the "S" Combining District ("A-S" Zone), unless said area is located east of the alignment of Piedmont Road, Evans Road, North Park Victoria Drive and Interstate 680 Freeway as shown on the adopted General Plan and more specifically defined as the westerly boundary of the "Hillside Area" as defined in the General Plan, in which case said area shall be classified as Single-Family District — Hillside with the "H" Combining District (specifically "R1-H"). (Ord. 38.672 (part), 9/15/92: Ord. 38.616 (A), 10/7/86: Ord. 38.355, 9/16/75: Ord. 38 (part), 3/15/55)

XI-10-54.05 Height: Height Conformance

Except as hereinafter provided, no building or structure shall hereafter be erected or reconstructed which exceeds the height limit established for the district wherein such building or structure is located. (Ord. 38 (part), 3/15/55)

XI-10-54.06 Area: Area Requirements

Except as hereinafter provided, no building or structure shall be hereafter erected or located on a lot unless such building, structure or enlargement conforms with the area regulations of the district in which it is located.

54.06-1 No parcel of land held under separate ownership at the time the ordinance codified in this Section became effective shall be reduced in any manner below the minimum lot width and lot area required by this Chapter.

54.06-2 No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the occupancy be increased in any manner except in conformity with the regulations herein established.

54.06-3 No required yard or other open space around an existing building, or which is hereafter